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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/657,581

09/08/2003

Laurel W. Barrus

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05/18/2004

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EXAMINER

IZAGUIRRE, ISMAEL

ART UNIT

PAPER NUMBER

3765

DATE MAILED: 05/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/657,581

Applicant(s)

BARRUS, LAUREL W.

Examiner

Ismael Izaguirre

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-10, 18-30 and 38-40 is/are allowed.
- 6) ☒ Claim(s) 11, 15-17, 31 and 35-37 is/are rejected.
- 7) ☒ Claim(s) 12-14 and 32-34 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/11/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***SPECIFICATION***

#### ***Informalities***

In the specification, on page 1, the application referred to has become a Patent. Insertion of the following is suggested between "SAME, " and "which": - - ,now Patent No. 6,615,756, - -.

### ***CLAIMS***

#### ***Summary***

Claims 1,11,15,18,21,31,35 and 38 are the independent claims under consideration in this Office Action.

Claims 2-10,12-14,16,17,19,20,22-30,32-34,36,37,39 and 40 are the dependent claims under consideration in this Office Action.

#### ***Claim Rejections - 35 U.S.C. § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11,15-17,31 and 35-37 are rejected under 35 U.S.C. § 102(b) as being anticipated by Reed et al. (4,192,241).

Reed et al. teach an apparatus for quilting layered fabrics. A sewing machine 10 is provided for quilting a material, which is made to ride on first 82 and second 88 tracks

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(or upper and lower tracks) for forming the quilting pattern on the material. The sewing machine includes removable means 86 (figure 7) for removably placing the sewing machine onto the quilting carriage. The tracks are engaged by "wheels" 85 and 91 for moving the sewing machine to and fro and are mounted onto a support structure 42, which disposes the quilting frame at an adjustable height above a working surface. The working surface, being the floor, supports the quilting frame and the frame has height adjustable legs 46,45,47 which in turn adjust the height of the quilting frame relative to the working surface. The material is moved and rolled up past the quilting needle by adjustable quilting rollers as the needle, and thus sewing machine, moves to and fro to form the desired pattern on the material(s).

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 11 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 15 of U.S. Patent No. 6,615,756. Although the conflicting claims are not identical, they are not patentably

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distinct from each other because applicant has received a patent on the more specific embodiments of the elements recited in the claims.

Claim 31 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 19,21,22, respectively of U.S. Patent No. 6,615,756. Although the conflicting claims are not identical, they are not patentably distinct from each other because applicant has received a patent on the more specific embodiments of the generic or broader elements recited in the claims.

#### ***ALLOWABLE SUBJECT MATTER***

Claims 1-10,18-30 and 38-40 are allowable over the prior art of record.

Claims 12-14 and 32-34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***PERTINENT CITATIONS***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Maag illustrates a quilting apparatus for placement on a working surface including a sewing machine, which is guided to move to and fro and provide a quilted pattern on a material.

#### ***INQUIRIES***

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist at (703) 308-0861.

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Any inquiry concerning this communication or earlier communications directed to the examiner should be directed to Mr. Ismael Izaguirre at (703) 308-0892 located in CP2-4B18, Monday through Friday 9:30am to 6:00pm.

A handwritten signature in black ink, appearing to read 'Iz' followed by a stylized flourish.

**Ismael Izaguirre  
Primary Examiner  
Group Art Unit 3765**

II  
5/16/04